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**Nixon & Vanderhye PC**  
ATTORNEYS AT LAW

11TH FLOOR  
901 NORTH GLEBE ROAD  
ARLINGTON, VIRGINIA 22203-1808

TELEPHONE: (703) 816-4000  
FACSIMILE: (703) 816-4100  
WRITER'S DIRECT DIAL NUMBER:  
**(703) 816-4005**

**FEB 03 2006**

***FACSIMILE COVER SHEET***  
**PLEASE DELIVER IMMEDIATELY!!!!**

Our Ref.: 1331-138

Your Ref.: 08/460,186 Date: February 3, 2006

To: Examiner Khare

Firm: USPTO

Facsimile No.: 571-273-8300

From: Len Mitchard

Number of Pages (including cover sheet): 4

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PLEASE CONTACT US IMMEDIATELY AT (703-816-4000).

lcm  
FACSIMILE OPERATOR

ATTACHMENT/S: Response to Advisory Action

MESSAGE:

**CONFIDENTIALITY NOTE**

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Feb 3 2006 14:32

P. 02

In re Patent Application of

Atty Dkt. 1331-138

C# M#

von BORSTEL et al.

TC/A.U.

1623

Serial No. 08/460,186

Examiner: Owens, H.

Filed: June 2, 1996

Date: February 3, 2006

Title: TREATMENT OF CHEMOTHERAPEUTIC AGENT AND ANTIVIRAL AGENT  
TOXICITY WITH ACYLATED PYRIMIDINE NUCLEOSIDESRECEIVED  
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FEB 03 2006

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

**RESPONSE/AMENDMENT/LETTER**

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

 **Correspondence Address Indication Form Attached.****Fees are attached as calculated below:**

Total effective claims after amendment	25	minus highest number			
previously paid for	25	(at least 20) =	0	x \$50.00	\$0.00 (1202)/\$0.00 (2202) \$ 0.00

Independent claims after amendment	1	minus highest number			
previously paid for	3	(at least 3) =	0	x \$200.00	\$0.00 (1201)/\$0.00 (2201) \$ 0.00

If proper multiple dependent claims now added for first time, (ignore improper); add

\$360.00 (1203)/\$180.00 (2203) \$ 0.00

Petition is hereby made to extend the current due date so as to cover the filing date of this paper and attachment(s)

One Month Extension \$120.00 (1251)/\$60.00 (2251)

Two Month Extensions \$450.00 (1252)/\$225.00 (2252)

Three Month Extensions \$1020.00 (1253)/\$510.00 (2253)

Four Month Extensions \$1590.00 (1254)/\$795.00 (2254)

Five Month Extensions \$2160.00 (1255)/\$1080.00 (2255) \$ 0.00

Terminal disclaimer enclosed, add

\$130.00 (1814)/ \$65.00 (2814) \$ 0.00

Applicant claims "small entity" status.  Statement filed herewith

Rule 56 Information Disclosure Statement Filing Fee \$180.00 (1806) \$ 0.00

Assignment Recording Fee \$40.00 (8021) \$ 0.00

Other: \$ 0.00

**TOTAL FEE ENCLOSED \$ 0.00**

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

901 North Glebe Road, 11th Floor  
Arlington, Virginia 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100  
LCM:lrm

NIXON & VANDERHYE P.C.  
By Atty: Leonard C. Mitchard, Reg. No. 29,009

Signature: \_\_\_\_\_

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FEB 03 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

von BORSTEL et al. Atty. Ref.: 1331-138; Confirmation No. 5103  
Appl. No. 08/460,186 TC/A.U. 1623  
Filed: June 2, 1995 Examiner: Khare, Devesh  
For: TREATMENT OF CHEMOTHERAPEUTIC AGENT AND ANTIVIRAL AGENT  
TOXICITY WITH ACYLATED PYRIMIDINE NUCLEOSIDES

\* \* \* \* \*

February 3, 2006

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

RESPONSE TO ADVISORY ACTION

In response to the Advisory Action mailed January 12, 2006, withdrawal of the Advisory Action and issuance of an Action on the merits is respectfully requested. The following reasoning is presented.

At the outset, the undersigned wishes to acknowledge a telephone interview conducted with the Examiner (Mr. Khare). The interview was conducted on February 1, 2006, and the courtesies extended by the Examiner were most appreciated. The purpose of the interview was to explain why it is believed that an action on the merits should issue in this case.

A Final Rejection was mailed in this case on February 23, 2004. A response was timely filed on July 23, 2004, and a Notice of Appeal was timely filed on August 23, 2004, together with the requisite extension requests. An Information Disclosure

NIXON & VANDERHYE PC    Fax:703-816-4100  
von BORSTEL et al.  
Appl. No. 08/460,186  
February 3, 2006

Feb 3 2006 14:32

P. 04

Statement was submitted on December 21, 2004. A first Advisory Action was mailed on February 4, 2005 indicating that the Response dated July 23, 2004 did not place the application in condition for allowance.

Applicants filed a Response on February 23, 2005 together with an Information Disclosure Statement and a Second Submission under Rule 129(a). The requisite Rule 129(a) fee (\$790.00) and the extension fee (\$1,590.00) accompanied the Response.

A second Advisory Action was mailed on January 12, 2006. Upon discussing this with the Examiner (Mr. Khare) during the telephone conference on February 1, 2006, the Examiner indicated that he was not aware of the Rule 129(a) filing on February 23, 2005. The undersigned advised the Examiner that under the provisions of Rule 129(a) (applicable to cases such as the present application filed prior to June 8, 1995), the filing of a Rule 129(a) submission results in the withdrawal of the finality and entry of the response and Information Disclosure Statement.

It is believed therefore that an Action on the merits should issue in this case. Such action is respectfully requested.

Favorable action on this application is awaited.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: \_\_\_\_\_

  
Leonard C. Mitchard  
Reg. No. 29,009

LCM:lfm  
901 North Glebe Road, 11th Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100